

PROPOSED REVISIONS TO RULES OF THE SUPREME COURT OF THE UNITED STATES

PROPOSED ADOPTION DATE: JANUARY 4, 1999

PROPOSED EFFECTIVE DATE: MAY 3, 1999

The Clerk's Comments that accompany the revisions to the Rules are not part of the Rules. They are furnished solely to assist readers in understanding the revisions.

Current 5.6

The fee for a duplicate certificate of admission to the Bar bearing the seal of the Court is \$15, payable to the United States Supreme Court. The proceeds will be maintained by the Marshal as provided in paragraph 5 of this Rule.

Proposed 5.6

The fee for a duplicate certificate of admission to the Bar bearing the seal of the Court is \$15, **and the fee for a certificate of good standing is \$10**, payable to the United States Supreme Court. The proceeds will be maintained by the Marshal as provided in paragraph 5 of this Rule.

[CLERK'S COMMENT: THE LANGUAGE WAS ADDED TO CLARIFY THE COST OF A CERTIFICATE OF GOOD STANDING IN THE RULE DEALING WITH ADMISSIONS.]

Current 13.3

The time to file a petition for a writ of certiorari runs from the date of entry of the judgment or order sought to be reviewed, and not from the issuance date of the mandate (or its equivalent under local practice). But if a petition for rehearing is timely filed in the lower court by any party, the time to file the petition for a writ of certiorari for all parties (whether or not they requested rehearing or joined in the petition for rehearing) runs from the date of the denial of the petition for rehearing or, if the petition for rehearing is granted, the subsequent entry of judgment. A suggestion made to a United States court of appeals for a rehearing en banc is not a petition for rehearing within the meaning of this Rule unless so treated by the United States court of appeals.

Proposed 13.3

The time to file a petition for a writ of certiorari runs from the date of entry of the judgment or order sought to be reviewed, and not from the issuance date of the mandate (or its equivalent under local practice). But if a petition for rehearing is timely filed in the lower court by any party, the time to file the petition for a writ of certiorari for all parties (whether or not they requested rehearing or joined in the petition for rehearing) runs from the date of the denial of the petition for rehearing or, if the petition for rehearing is granted, the subsequent entry of judgment.

[CLERK'S COMMENT: THE LAST SENTENCE OF THE CURRENT RULE 13.3, DEALING WITH SUGGESTIONS FOR REHEARING EN BANC, WAS DELETED. THE RECENTLY ADOPTED RULES 35 AND 41 OF THE FEDERAL RULES OF APPELLATE PROCEDURE MAKE THAT SENTENCE OBSOLETE.]

Current 25.1

The petitioner or appellant shall file 40 copies of the brief on the merits within 45 days of the order granting the writ of certiorari, noting probable jurisdiction, or postponing consideration of jurisdiction.

Proposed 25.1

The petitioner or appellant shall file 40 copies of the brief on the merits within 45 days of the order granting the writ of certiorari, noting probable jurisdiction, or postponing consideration of jurisdiction. **Any respondent or appellee who supports the petitioner or appellant shall meet the petitioner's or appellant's time schedule for filing documents.**

[CLERK'S COMMENT: THE LANGUAGE CLARIFIES THE TIME FOR FILING A BRIEF ON THE MERITS IF THE RESPONDENT OR APPELLEE SUPPORTS THE PETITIONER OR APPELLANT.]

Current 25.3

The petitioner or appellant shall file 40 copies of the reply brief, if any, within 30 days after receiving the brief for the respondent or appellee, but any reply brief must actually be received by the Clerk not later than one week before the date of oral argument.

Proposed 25.3

The petitioner or appellant shall file 40 copies of the reply brief, if any, within 30 days after receiving the brief for the respondent or appellee, but any reply brief must actually be received by the Clerk not later than one week before the date of oral argument. **Any respondent or appellee supporting the petitioner or appellant may file a reply brief.**

[CLERK'S COMMENT: THE ADDITIONAL LANGUAGE IS FOR CLARITY.]

Current 29.6

Every document, except a joint appendix or *amicus curiae* brief, filed by or on behalf of one or more corporations shall list all parent companies and nonwholly owned subsidiaries of each of the corporate filers. If there is no parent or subsidiary company to be listed, a notation to this effect shall be included in the document. If a list has been included in a document filed earlier in the case, reference may be made to the earlier document (except when the earlier list appeared in an application for an extension of time or for a stay), and only amendments to the list to make it current need be included in the document being filed.

Proposed 29.6

Every document, except a joint appendix or *amicus curiae* brief, filed by or on behalf of a **nongovernmental corporate party** shall **contain a statement identifying the party's parent corporations and listing any publicly held company that owns 10% or more of the party's stock**. If there is no parent **or publicly held company owning 10% or more of the party's stock**, a notation to this effect shall be included in the document. If a **statement** has been included in a document filed earlier in the case, reference may be made to the earlier document (except when the earlier **statement** appeared in a **document prepared under Rule 33.2**), and only amendments to the **statement** to make it current need be included in the document being filed.

[CLERK'S COMMENT: THE TITLE OF RULE 29 WAS CHANGED TO DELETE "CORPORATE LISTING" AND SUBSTITUTE THEREFOR "CORPORATE DISCLOSURE STATEMENT." RULE 29.6 HAS BEEN REVISED TO IDENTIFY INTERESTS SUFFICIENT ENOUGH TO CAUSE A JUSTICE'S RECUSAL. IT DELETES THE REQUIREMENT THAT A CORPORATE PARTY IDENTIFY SUBSIDIARIES THAT HAVE ISSUED SHARES TO THE PUBLIC. IT IS PATTERNED ON THE RECENTLY ADOPTED RULE 26.1 OF THE FEDERAL RULES OF APPELLATE PROCEDURE.]

Current Rule 32.2

All models, diagrams, and exhibits of material placed in the custody of the Clerk shall be removed by the parties no more than 40 days after the case is decided. If this is not done, the Clerk will notify counsel to remove the articles forthwith. If they are not removed within a reasonable time thereafter, the Clerk will destroy them or dispose of them in any other appropriate way.

Proposed Rule 32.2

All models, diagrams, exhibits, **and other items** of material placed in the custody of the Clerk shall be removed by the parties no more than 40 days after the case is decided. If this is not done, the Clerk will notify counsel to remove the articles forthwith. If they are not removed within a reasonable time thereafter, the Clerk will destroy them or dispose of them in any other appropriate way.

[CLERK'S COMMENT: THE ADDITIONAL LANGUAGE CONFORMS TO CLERK'S OFFICE PRACTICE.]

Current Rule 33.1

1. *Booklet Format:* (a) Except for a document expressly permitted by these Rules to be submitted on 8½- by 11-inch paper, see, *e. g.*, Rules 21, 22, and 39, every document filed with the Court shall be prepared using typesetting (*e. g.*, word-processing, electronic publishing, or image setting) and reproduced by offset printing, photocopying, or similar process. The process used must produce a clear, black image on white paper.

(b) The text of every document, including any appendix thereto, except a document permitted to be produced on 8½- by 11-inch paper, shall be typeset in standard 11-point or larger type with 2-point or more leading between lines. The type size and face shall be no smaller than that contained in the United States Reports beginning with Volume 453. Type size and face shall be consistent throughout. No attempt should be made to reduce, compress, or condense the typeface in a manner that would increase the content of a document. Quotations in excess of three lines shall be indented. Footnotes shall appear in print as standard 9-point or larger type with 2-point or more leading between lines. The text of the document must appear on both sides of the page.

(c) Every document, except one permitted to be produced on 8½- by 11-inch paper, shall be produced on paper that is opaque, unglazed, 6⅛ by 9¼ inches in size, and not less than 60 pounds in weight, and shall have margins of at least three-fourths of an inch on all sides. The text field, including footnotes, should be approximately 4⅛ by 7⅛ inches. The document shall be bound firmly in at least two places along the left margin (saddle stitch or perfect binding preferred) so as to permit easy opening, and no part of the text should be obscured by the binding. Spiral, plastic, metal, and string bindings may not be used. Copies of patent documents, except opinions, may be duplicated in such size as is necessary in a separate appendix.

(d) Every document, except one permitted to be produced on 8½- by 11-inch paper, shall comply with the page limits shown on the chart in subparagraph 1(g) of this Rule. The page limits do not include the pages containing the questions presented, the list of parties and corporate affiliates of the filing party, the table of contents, the table of cited authorities, or any appendix. Verbatim quotations required under Rule 14.1(f), if set out in the text of a brief rather than in the appendix, are also excluded. For good cause, the Court or a Justice may grant leave to file a document in excess of the page limits, but application for such leave is not favored. An application to exceed page limits shall comply with Rule 22 and must be received by the Clerk at least 15 days before the filing date of the document in question, except in the most extraordinary circumstances.

(e) Every document, except one permitted to be produced on 8½- by 11-inch paper, shall have a suitable cover consisting of 65-pound weight paper in the color indicated on the chart in subparagraph 1(g) of this Rule. If a separate appendix to any document is filed, the color of its cover shall be the same as that of the cover of the document it supports. The Clerk will furnish a color chart upon request. Counsel shall ensure that there is adequate contrast between the printing and the color of the cover. A document filed by the United States, or by any other federal party represented by the Solicitor General, shall have a gray cover. A joint appendix, answer to a bill of complaint, motion for leave to intervene, and any other document not listed in subparagraph 1(g) of this Rule shall have a tan cover.

(f) Forty copies of a document prepared under this paragraph shall be filed.

(g) Page limits and cover colors for booklet-format documents are as follows:

	Type of Document	Page Limits	Color of Cover
(i)	Petition for a Writ of Certiorari (Rule 14); Motion for Leave to File a Bill of Complaint and Brief in Support (Rule 17.3); Jurisdictional Statement (Rule 18.3); Petition for an Extraordinary Writ (Rule 20.2)	30	white
(ii)	Brief in Opposition (Rule 15.3); Brief in Opposition to Motion for Leave to File an Original Action (Rule 17.5); Motion to Dismiss or Affirm (Rule 18.6); Brief in Opposition to Mandamus or Prohibition (Rule 20.3(b)); Response to a Petition for Habeas Corpus (Rule 20.4)	30	orange
(iii)	Reply to Brief in Opposition (Rules 15.6 and 17.5); Brief Opposing a Motion to Dismiss or Affirm (Rule 18.8)	10	tan
(iv)	Supplemental Brief (Rules 15.8, 17, 18.10, and 25.5)	10	tan
(v)	Brief on the Merits for Petitioner or Appellant (Rule 24); Exceptions by Plaintiff to Report of Special Master (Rule 17)	50	light blue
(vi)	Brief on the Merits for Respondent or Appellee (Rule 24.2); Brief on the Merits for Respondent or Appellee Supporting Petitioner or Appellant (Rule 12.6); Exceptions by Party Other Than Plaintiff to Report of Special Master (Rule 17)	50	light red
(vii)	Reply Brief on the Merits (Rule 24.4)	20	yellow
(viii)	Reply to Plaintiff's Exceptions to Report of Special Master (Rule 17)	50	orange
(ix)	Reply to Exceptions by Party Other Than Plaintiff to Report of Special Master (Rule 17)	50	yellow

(x)	Brief for an <i>Amicus Curiae</i> at the Petition Stage (Rule 37.2)	20	cream
(xi)	Brief for an <i>Amicus Curiae</i> in Support of the Plaintiff, Petitioner, or Appellant, or in Support of Neither Party, on the Merits or in an Original Action at the Exceptions Stage (Rule 37.3)	30	light green
(xii)	Brief for an <i>Amicus Curiae</i> in Support of the Defendant, Respondent, or Appellee, on the Merits Or in an Original Action at the Exceptions Stage (Rule 37.3)	30	dark green
(xiii)	Petition for Rehearing (Rule 44)	10	tan

Proposed 33.1

1. *Booklet Format*: (a) Except for a document expressly permitted by these Rules to be submitted on 8½- by 11-inch paper, see, *e. g.*, Rules 21, 22, and 39, every document filed with the Court shall be prepared **in a 6 1/8 – by 9 1/4-inch booklet-format** using typesetting (*e.g.*, **printing**, word-processing, electronic publishing, or image setting). The process used must produce a clear, black image on white paper. **The text must be reproduced with a clarity that equals or exceeds the output of a laser printer.**

(b) The text of every **booklet-format** document, including any appendix thereto, shall be typeset in standard 11-point or larger type with 2-point or more leading between lines. **A proportionally spaced typeface must include serifs, but sans-serif type may be used in headings and captions. The typeface should be similar to that used in current volumes of the United States Reports. The use of condensed or thinner typeface, or of means to reduce the space between letters, is to be avoided.** Type size and face shall be consistent throughout. Quotations in excess of **50 words** shall be indented. The typeface of footnotes shall be 9-point or larger with 2-point or more leading between lines. The text of the document must appear on both sides of the page.

(c) Every **booklet-format** document shall be produced on paper that is opaque, unglazed, and not less than 60 pounds in weight, and shall have margins of at least three-fourths of an inch on all sides. The text field, including footnotes, **may not exceed 4 1/8 by 7 1/8 inches.** The document shall be bound firmly in at least two places along the left margin (saddle stitch or perfect binding preferred) so as to permit easy opening, and no part of the text should be obscured by the binding. Spiral, plastic, metal, **or** string bindings may not be used. Copies of patent documents, except opinions, may be duplicated in such size as is necessary in a separate appendix.

(d) Every **booklet-format** document shall comply with the page limits shown on the chart in subparagraph 1(g) of this Rule. The page limits do not include the questions presented, the list of parties and the corporate **disclosure statement** of the filing party, the table of contents, the table of cited authorities, or any appendix. Verbatim quotations required under Rule 14.1(f), if set out in the text of a brief rather than in the appendix, are also excluded. For good cause, the Court or a Justice may grant leave to file a document in excess of the page limits, but application for such leave is not favored. An application to exceed page limits shall comply with Rule 22 and must be received by the Clerk at least 15 days before the filing date of the document in question, except in the most extraordinary circumstances.

(e) Every booklet-**format** document shall have a suitable cover consisting of 65-pound weight paper in the color indicated on the chart in subparagraph 1(g) of this Rule. If a separate appendix to any document is filed, the color of its cover shall be the same as that of the cover of the document it supports. The Clerk will furnish a color chart upon request. Counsel shall ensure that there is adequate contrast between the printing and the color of the cover. A document filed by the United States, or by any other federal party represented by the Solicitor General, shall have a gray cover. A joint appendix, answer to a bill of complaint, motion for leave to intervene, and any other document not listed in subparagraph 1(g) of this Rule shall have a tan cover.

(f) Forty copies of a **booklet-format** document shall be filed.

(g) Page limits and cover colors for booklet-format documents are as follows:

	Type of Document	Page Limits	Color of Cover
(i)	Petition for a Writ of Certiorari (Rule 14); Motion for Leave to File a Bill of Complaint and Brief in Support (Rule 17.3); Jurisdictional Statement (Rule 18.3); Petition for an Extraordinary Writ (Rule 20.2)	30	white
(ii)	Brief in Opposition (Rule 15.3); Brief in Opposition to Motion for Leave to File an Original Action (Rule 17.5); Motion to Dismiss or Affirm (Rule 18.6); Brief in Opposition to Mandamus or Prohibition (Rule 20.3(b)); Response to a Petition for Habeas Corpus (Rule 20.4)	30	orange
(iii)	Reply to Brief in Opposition (Rules 15.6 and 17.5); Brief Opposing a Motion to Dismiss or Affirm (Rule 18.8)	10	tan
(iv)	Supplemental Brief (Rules 15.8, 17, 18.10, and 25.5)	10	tan
(v)	Brief on the Merits for Petitioner or Appellant (Rule 24); Exceptions by Plaintiff to Report of Special Master (Rule 17)	50	light blue
(vi)	Brief on the Merits for Respondent or Appellee (Rule 24.2); Brief on the Merits for Respondent or Appellee Supporting Petitioner or Appellant (Rule 12.6); Exceptions by Party Other Than Plaintiff to Report of Special Master (Rule 17)	50	light red
(vii)	Reply Brief on the Merits (Rule 24.4)	20	yellow
(viii)	Reply to Plaintiff's Exceptions to Report of Special Master (Rule 17)	50	orange
(ix)	Reply to Exceptions by Party Other Than Plaintiff to Report of Special Master (Rule 17)	50	yellow

(x)	Brief for an <i>Amicus Curiae</i> at the Petition Stage (Rule 37.2)	20	cream
(xi)	Brief for an <i>Amicus Curiae</i> in Support of the Plaintiff, Petitioner, or Appellant, or in Support of Neither Party, on the Merits or in an Original Action at the Exceptions Stage (Rule 37.3)	30	light green
(xii)	Brief for an <i>Amicus Curiae</i> in Support of the Defendant, Respondent, or Appellee, on the Merits Or in an Original Action at the Exceptions Stage (Rule 37.3)	30	dark green
(xiii)	Petition for Rehearing (Rule 44)	10	tan

[CLERK’S COMMENT: CHANGES TO THIS RULE ARE DESIGNED TO AID IN CONTROLLING THE VOLUME OF MATERIAL CONTAINED IN BOOKLET-FORMAT DOCUMENTS. IN ADDITION, THE INDENTATION REQUIREMENT FOR QUOTATIONS HAS BEEN CHANGED TO CONFORM TO THE BLUEBOOK STANDARD.]

Current 34.1

1. Each document shall bear on its cover, in the order indicated, from the top of the page:
 - (a) the docket number of the case or, if there is none, a space for one;
 - (b) the name of this Court;
 - (c) the October Term in which the document is filed (see Rule 3);

Proposed 34.1

1. Each document shall bear on its cover, in the order indicated, from the top of the page:
 - (a) the docket number of the case or, if there is none, a space for one;
 - (b) the name of this Court;

[CLERK’S COMMENT: 34.1(c) WAS DELETED TO ELIMINATE CONFUSION.]

Current 35.1

If a party dies after filing a petition for a writ of certiorari to this Court, or after filing a notice of appeal, the authorized representative of the deceased party may appear and, on motion, be substituted as a party. If the representative does not voluntarily become a party, any other party may suggest the death on the record and, on motion, seek an order requiring the representative to become a party within a designated time. If the representative then fails to become a party, the party so moving, if a respondent or appellee, is entitled to have the petition for a writ of certiorari or the appeal dismissed, and if a petitioner or appellant, is entitled to proceed as in any other case of nonappearance by a respondent or appellee. If the substitution of a representative of the deceased is not made within six months after the death of the party, the case shall abate.

Proposed 35.1

If a party dies after **the filing of** a petition for a writ of certiorari, or after **the filing of** a notice of appeal, the authorized representative of the deceased party may appear and, on motion, be substituted as a party. If the representative does not voluntarily become a party, any other party may suggest the death on the record and, on motion, seek an order requiring the representative to become a party within a designated time. If the representative then fails to become a party, the

party so moving, if a respondent or appellee, is entitled to have the petition for a writ of certiorari or the appeal dismissed, and if a petitioner or appellant, is entitled to proceed as in any other case of nonappearance by a respondent or appellee. If the substitution of a representative of the deceased is not made within six months after the death of the party, the case shall abate.

[CLERK'S COMMENT: THE WORDS "AFTER THE FILING OF" WERE SUBSTITUTED FOR "AFTER FILING" TO MAKE IT CLEAR THAT THE RULE APPLIES TO ALL PARTIES, NOT JUST PETITIONERS AND APPELLANTS.]

Current 44.2

Any petition for the rehearing of an order denying a petition for a writ of certiorari or extraordinary writ shall be filed within 25 days after the date of the order of denial and shall comply with all the form and filing requirements of paragraph 1 of this Rule, including the payment of the filing fee if required, but its grounds shall be limited to intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented. The petition shall be presented together with certification of counsel (or of a party unrepresented by counsel) that it is restricted to the grounds specified in this paragraph and that it is presented in good faith and not for delay; one copy of the certificate shall bear the signature of counsel (or of a party unrepresented by counsel). A copy of the certificate shall follow and be attached to each copy of the petition. The Clerk will not file a petition without a certificate. The petition is not subject to oral argument.

Proposed 44.2

Any petition for the rehearing of an order denying a petition for a writ of certiorari or extraordinary writ shall be filed within 25 days after the date of the order of denial and shall comply with all the form and filing requirements of paragraph 1 of this Rule, including the payment of the filing fee if required, but its grounds shall be limited to intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented. The petition shall be presented together with certification of counsel (or of a party unrepresented by counsel) that it is restricted to the grounds specified in this paragraph and that it is presented in good faith and not for delay; one copy of the certificate shall bear the signature of counsel (or of a party unrepresented by counsel). The certificate shall **be bound with** each copy of the petition. The Clerk will not file a petition without a certificate. The petition is not subject to oral argument.

[CLERK'S COMMENT: THE WORDS "FOLLOW AND BE ATTACHED TO" WERE CHANGED TO ENSURE THAT IN PAID CASES THE CERTIFICATION IS SUBMITTED AS A PART OF THE PETITION AND NOT AS A SEPARATE DOCUMENT ON 8 ½ X 11-INCH PAPER.]

